

AMENDED IN SENATE JUNE 22, 2006

AMENDED IN ASSEMBLY APRIL 26, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2992

Introduced by Assembly Member Evans

February 24, 2006

An act to add Sections 10761.5 and 10761.7 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2992, as amended, Evans. California State University.

The California State University Contract Law requires the Trustees of the California State University to obtain specified financial information and the completion of a standard questionnaire with respect to prospective bidders for contracts estimated to exceed the value of a minor capital outlay project, as described. Existing law requires the questionnaire and financial statement to be verified under oath, as described. Existing law also requires the trustees to award the contract for the public works project to the lowest responsible bidder, as specified.

This bill would require the trustees to give notice to all prospective bidders *for contracts that exceed \$1,000,000*, as specified, that bidders will not be deemed responsible bidders unless all *mechanical* subcontractors listed to perform work ~~that exceeds the value of a minor capital outlay project, as specified~~, submit answers to questions contained in a standard form of questionnaire and a financial statement including a complete statement of the prospective

mechanical subcontractor's financial ability and experience in performing public works projects *and are listed on the trustee's registry of qualified and responsible mechanical subcontractors, as created by the trustees, for 30 days prior to the bid opening subject to specified requirements.* This bill would require the subcontractor to verify ~~these documents~~ *the questionnaire and financial statement* under oath, as described. In its application to local agencies, this bill would create a state-mandated local program.

This bill makes findings regarding the necessity of this requirement in order to further the objectives of Public Contract Law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10761.5 is added to the Public Contract
- 2 Code, to read:
- 3 10761.5. The Legislature hereby finds and declares all of the
- 4 following:
- 5 (a) The establishment by the California State University of a
- 6 uniform system to evaluate the ability, competency, and integrity
- 7 of bidders on public works projects pursuant to Sections 10760
- 8 and 10761 is in the public interest and has resulted in the highest
- 9 quality of construction by general contractors for the lowest
- 10 costs, and is in the furtherance of the objectives stated in Section
- 11 100.
- 12 (b) The application of Sections 10760 and 10761, when
- 13 applied to subcontractors performing on California State
- 14 University projects as the prime contractor, has also resulted in
- 15 the highest quality of construction at the lowest cost and has also
- 16 furthered the objectives in Section 100.
- 17 (c) Section 1103 defines a "responsible bidder" as a bidder
- 18 who has demonstrated the attribute of trustworthiness, as well as
- 19 quality, fitness, capacity, and experience to satisfactorily perform

1 the public works contract, and Section 4107 authorizes a prime
2 contractor performing a public works project to substitute a
3 subcontractor under specified circumstances, including when the
4 awarding authority determines that a listed subcontractor is not a
5 responsible contractor.

6 (d) Therefore, the Legislature finds and declares that, in order
7 to further the objectives of Section 100 and ensure that only
8 responsible subcontractors perform work on public works
9 projects at the California State University, it is in the best interest
10 of this state to extend the prequalification process required under
11 Sections 10760 and 10761 to all subcontractors.

12 SEC. 2. Section 10761.7 is added to the Public Contract
13 Code, to read:

14 10761.7. (a) The trustees shall, on contracts the estimated
15 cost of which exceeds the value of a minor capital outlay project,
16 ~~pursuant to Section 10108 one million dollars (\$1,000,000), give~~
17 public notice to all prospective bidders that bidders will not be
18 deemed responsible bidders unless all *mechanical* subcontractors
19 listed to perform work that exceeds the value of a minor capital
20 outlay project, ~~pursuant to Section 10108, submit answers to~~
21 ~~questions contained in a standard form of questionnaire and a~~
22 ~~financial statement including a complete statement of the~~
23 ~~prospective subcontractor's financial ability and experience in~~
24 ~~performing public works projects. have been listed on the~~
25 ~~trustee's registry of qualified and responsible mechanical~~
26 ~~subcontractors for at least 30 days prior to the bid opening.~~

27 (b) The standard questionnaire and financial statement
28 established by the trustees pursuant to subdivision (a) shall
29 contain, at a minimum, the same general elements contained in
30 the standard questionnaire and financial statement required of
31 prospective bidders pursuant to Section 10760. This subdivision
32 shall not preclude the trustees from requiring additional
33 information specific to subcontractors in the standard
34 questionnaire and financial statement.

35 (c) When completed, the questionnaire and financial statement
36 shall be verified under oath by the prospective subcontractor in
37 the manner in which pleadings in civil actions are verified.

38 (d) *The trustees shall establish and maintain a public registry*
39 *of mechanical subcontractors who have filed with the trustees a*
40 *standard prequalification questionnaire and financial statement*

1 *and have been deemed by the trustees to be responsible bidders,*
2 *as defined in Section 1103. Mechanical subcontractors seeking to*
3 *perform work on projects pursuant to this section shall be*
4 *required to update their questionnaires at least once every 12*
5 *months pursuant to this section.*

6 ~~(d)~~

7 (e) Nothing in this section shall be interpreted to prevent the
8 prospective bidder from substituting a subcontractor pursuant to
9 Section 4107 in the event the trustees determine a listed
10 subcontractor is not a responsible contractor.

11 SEC. 3. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the
16 penalty for a crime or infraction, within the meaning of Section
17 17556 of the Government Code, or changes the definition of a
18 crime within the meaning of Section 6 of Article XIII B of the
19 California Constitution.